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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,362	09/30/2003	John P. Miller	F-746	5976

7590 07/14/2004

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EXAMINER

FERGUSON, MARISSA L

ART UNIT PAPER NUMBER

2854

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,362

Applicant(s)

MILLER ET AL.

Examiner

Marissa L Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1,7-11 and 17-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,5,7,12,13,16,18 and 20 of copending Application No. 10/675,403. Although the conflicting claims are not identical, they are not patentably distinct from each other

because all that is claimed in claims 1,7-11 and 17-20 of the present application is also claimed in applicant 10/675,403.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 2 and 12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,5,7,12,13,16,18 and 20 of copending Application No. 10/675,403 in view of Hayashi et al. (US Patent 5,829,895).

This is a provisional obviousness-type double patenting rejection.

Regarding claims 2 and 12, Application No. 10/675,403 teaches the method and apparatus claimed, however he does not explicitly disclose documents that are mail pieces and a postage meter coupled to the print heads, whereby postal indicia are printed on the mail pieces. Hayashi et al. teaches a method for printing indicia that discloses postal indicia that are printed on mail pieces and a postage meter coupled to a print head (Column 3, Lines 33-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention as taught by Application No. 10/675,403 to include postal indicia printed on mail pieces and a postage meter as taught by Hayashi et al., since Hayashi et al. produces a visually appealing and a clearly readable image.

4. Claims 3-6 and 13-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims

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1,5,7,12,13,16,18 and 20 of copending Application No. 10/675,403 in view of Hayashi et al. (US Patent 5,829,895) as applied to claims 1 and 2 above, further in view of Fowlkes (US Patent 6,361,163).

Regarding claims 3 and 13, Application No. 10/675,403 and Hayashi et al. both teach the method and apparatus claimed with the exception of ink jet print heads. Fowlkes teaches a printer that comprises ink jet print heads (70a, 70b and Abstract) moveable in different directions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention as taught by Application No. 10/675,403 to include ink jet print heads as taught by Fowlkes, since Fowlkes teaches it desirable to print images on different sized receivers without reorientation or changing the print head to a different size print head.

Regarding claims 4 and 14, Application No. 10/675,403 and Hayashi et al. both teach the method and apparatus claimed with the exception of a controller that periodically takes the print head that is in use out of service to perform maintenance operations. Fowlkes teaches a printer that comprises a controller that performs maintenance operations periodically such as taking a print head that is in use out of service (Column 7, Lines 34-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention as taught by Application No. 10/675,403 to include a controller as taught by Fowlkes, since Fowlkes teaches that it advantageous to take out a malfunctioning print head in order to maintain a continuous high printing productive process.

Regarding claims 5,6,15 and 16, Application No. 10/675,403 teaches the method and apparatus claimed, however he does not explicitly disclose wherein the maintenance operation is a print head wipe and print head purge. Hayashi et al. teaches wiping and purging during maintenance operations (Column 4, Lines 7-18). However, Hayashi et al. does not explicitly disclose However, a controller that periodically takes the print head that is in use out of service to perform maintenance operations. Fowlkes teaches a printer that comprises a controller that performs maintenance operations periodically such as taking a print head that is in use out of service (Column 7, Lines 34-44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention as taught by Fowlkes to include purging and wiping during maintenance operations as taught by Hayashi et al., since Hayashi et al. teaches that it is advantageous to purge and wipe in order to provide a debris free print head and to include a controller as taught by Fowlkes, since Fowlkes teaches that it advantageous to take out a malfunctioning print head in order to maintain a continuous high printing productive process.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa L Ferguson whose telephone number is (571) 272-2163. The examiner can normally be reached on (M-T) 6:30am-4:00pm and every other (F) 7:30am-4:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marissa L. Ferguson  
Examiner  
Art Unit 2854

*MLF*  
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ANDREW H. HIRSHFELD  
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